UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:17-cy-98-FDW

ROBERT LAMAR MCFADDEN,)
Plaintiff,)
vs.	ORDER
JULIE JENKINS, et al.,)
Defendants.))

THIS MATTER is before the Court on Plaintiff's Motion to Appoint Counsel, (Doc. No. 3), and on Plaintiff's Motion for Status and Response, (Doc. No. 5).

In support of the motion to appoint counsel, Plaintiff states, among other things, that he cannot afford counsel; his imprisonment will greatly limit his ability to litigate the issues; the issues are complex; he has no access to a law library and limited knowledge of the law; he is in segregated housing; a trial would involve conflicting testimony; and he has tried to obtain an attorney to no avail. There is no absolute right to the appointment of counsel in civil actions such as this one. Therefore, a plaintiff must present "exceptional circumstances" in order to require the Court to seek the assistance of a private attorney for a plaintiff who is unable to afford counsel. Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987). Notwithstanding Plaintiff's contentions to the contrary, this case does not present exceptional circumstances that justify appointment of counsel. Therefore, Plaintiff's motion to appoint counsel will be denied.

Next, as to Plaintiff's motion for status and response, the Court advises Plaintiff that the Court will conduct an initial review of Plaintiff's Complaint and his allegations when the Court

has received Plaintiff's administrative remedies statement and his prisoner trust account, and after the Clerk of this Court enters an order waiving the initial filing fee and granting Plaintiff in forma pauperis status. Therefore, Plaintiff does not need to take any further action in this matter before this Court conducts its initial review.

IT IS THEREFORE ORDERED that:

- (1) Plaintiff's Motion to Appoint Counsel, (Doc. No. 3), is **DENIED**.
- (2) Plaintiff's Motion for Status and Response, (Doc. No. 5), is **GRANTED** to the extent that the Court has now responded to Plaintiff's motion.

Signed: April 26, 2017

Frank D. Whitney

Chief United States District Judge